

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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LESTER BARGER	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
COLUMBIA SUSSEX CORPORATION,	:	
and COLUMBIA SUSSEX	:	
MANAGEMENT, LLC,	:	NO.
Defendants.	:	

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**NOTICE OF REMOVAL OF THE DEFENDANTS COLUMBIA SUSSEX  
CORPORATION AND COLUMBIA SUSSEX MANAGEMENT, LLC**

The defendants Columbia Sussex Corporation ("Columbia Sussex") and Columbia Sussex Management, LLC ("CSM")(collectively, with Columbia Sussex, the "Columbia Sussex Defendants") by and through their counsel, George M. Vinci, Jr, Esquire, John T. Asher, III, Esquire, and the law firm of Spector Gadon & Rosen, P.C. remove this action from the Court of Common Pleas of Philadelphia County, docketed at March Term, 2011, No. 03242 to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1441, and in support thereof avers as follows:

1. The plaintiff, Lester Barger (the "Plaintiff") commenced this action by complaint on March 29, 2011 in the Philadelphia County Court of Common Pleas, and same was docketed at March Term 2011, No. 03242 (the "State Court Action"). A true and correct copy of the complaint is attached hereto as Exhibit "A."

2. The Plaintiff claims that he sustained injuries in an incident which allegedly occurred on April 4, 2009 (the "Incident") in the Sheraton Philadelphia City Center Hotel (the "Hotel") located at 201 North 17th Street in Philadelphia, Pennsylvania. Exhibit "A," at ¶¶ 11 - 20.

3. According to the Plaintiff's complaint, the Plaintiff claims that he sustained severe upper and lower extremity nerve damage; loss of sleep; loss of appetite; loss of enjoyment of life; migraine headaches; severe pain and anxiety. Id. at ¶ 5.

4. In his complaint, the Plaintiff alleges that his claims are in excess of \$50,000.00. See Exhibit "A," ad damnum clause therein.

5. The Plaintiff brought commenced the State Court Action against Columbia Sussex and CS Management for, inter alia, negligence and res ipsa loquitur. Id. at pp. 3 - 4.

6. The Columbia Sussex Defendants first learned that the Plaintiff believes that his claims are worth in excess of \$75,000.00 when its counsel spoke with counsel for the plaintiff in a telephone conversation on May 4th, 2011 and was advised that the plaintiff's counsel believes that the value of the plaintiff's case is in excess of \$100,000.00, which was confirmed a letter dated May 10, 2011, a true and correct copy of which is attached hereto as Exhibit "B."

7. This Notice of Removal is timely under 28 U.S.C. § 1446(b), since it is being filed within thirty (30) days after the Columbia Sussex Entities learned, through their counsel's conversation with counsel for the plaintiff, that that the Plaintiff believes the value of the case is in excess of \$75,000.00 and is therefore removable.

8. No further proceedings have taken place in the State Court Action.

9. This action is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. §1332 and it is one which may be removed to this Court pursuant to the provisions of 28 U.S.C §1441.

10. The Plaintiff, as alleged in his complaint, is resides Decatur, Illinois. See plaintiffs' complaint, Exhibit "A" at ¶ 1.

11. The Defendant, Columbia Sussex is a Kentucky Corporation with a principal place of business located at 740 Centre View Boulevard., Crestview Hills, KY 41017.

12. The Defendant, CS Management is a Kentucky limited liability company with a primary place of business located at 740 Centre View Boulevard, Crestview Hills, KY 41017. CS Management is owned by Columbia Sussex and Columbia Management, Inc. Columbia Management, Inc. is a Kentucky Corporation with a primary place of business located at 740 Centre View Boulevard, Crestview Hills, KY 41017.

13. Since the Plaintiff is a citizen of Illinois and the defendants, Columbia Sussex and CS Management, are citizens of Kentucky, this suit involves controversies between citizens of different states and therefore is removable pursuant to 28 U.S.C §1441.

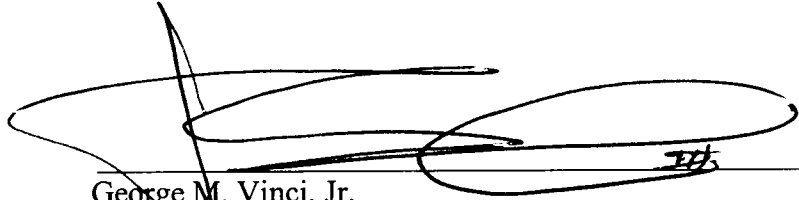
14. The amount in controversy, according to the Plaintiff, exceeds seventy five thousand dollars (\$75,000.00) exclusive of interest and costs. See Exhibit "B."

15. The Columbia Sussex Defendants have, simultaneously with the filing of this notice, given written notice to counsel for the plaintiff of the removal of this action.

16. The Columbia Sussex Defendants have filed a copy of this Notice of Removal, with all attachments thereto, in the Philadelphia County Court of Common Pleas.

WHEREFORE, the defendants, Columbia Sussex and CS Management respectfully request that the above titled action now pending in the Philadelphia Court of Common Pleas be removed to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read 'G. Vinci, Jr.', is written over a horizontal line.

George M. Vinci, Jr.

John T. Asher, III

**SPECTOR GADON & ROSEN, P.C.**

Seven Penn Center

1635 Market Street, 7<sup>th</sup> Floor

Philadelphia, PA 19103

(215) 241-8888

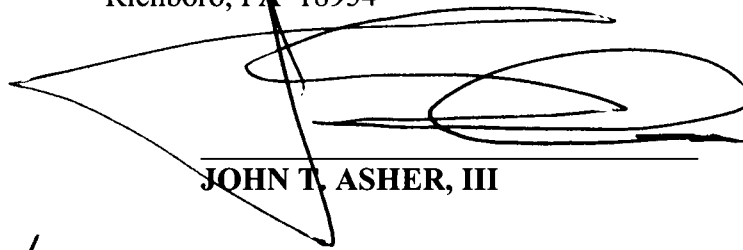
(215) 241-8844 (facsimile)

Attorneys for the defendants Columbia Sussex  
Corporation, and Columbia Sussex Management, LLC

**CERTIFICATE OF SERVICE**

I, John T. Asher, III, hereby certify that true and correct copy of the foregoing Notice of Removal was served upon the following individuals via U.S. mail, postage prepaid on the date set forth below:

Jeffrey S. Nowak, Esquire  
Law Offices of Jeffrey S. Nowak  
95 Almshouse Road  
Suite 305  
Richboro, PA 18954



JOHN T. ASHER, III

Dated: \_\_\_\_\_

5/16/11

# EXHIBIT A

Court of Common Pleas of Philadelphia County

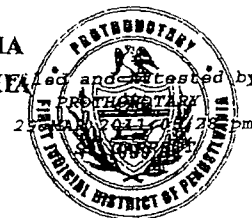
Trial Division

**Civil Cover Sheet**

PLAINTIFF'S NAME LESTER W.. BARGES		DEFENDANT'S NAME COLUMBIA SUSSEX CORPORATION	
PLAINTIFF'S ADDRESS 450 E. PERSHING ROAD SUITE 206 DECATUR IL 62526		DEFENDANT'S ADDRESS CT CORPORATION SYSTEM 1635 MARKET ST. PHILA. PA 19103	
PLAINTIFF'S NAME		DEFENDANT'S NAME COLUMBIA SUSSEX MANAGEMENT, LLC	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS CT CORPORATION SYSTEM 1635 MARKET STREET PHILA. PA 19103	
PLAINTIFF'S NAME		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 2	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input checked="" type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input checked="" type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other:		
CASE TYPE AND CODE 2S - PREMISES LIABILITY, SLIPP/FALL			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		IS CASE SUBJECT TO COORDINATION ORDER? YES    NO	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>LESTER W. BARGES</u> Papers may be served at the address set forth below.		FILED PRO PROTHY MAR 29 2011 S. GARRETT	
NAME OF PLAINTIFFS/PETITIONER'S/APPELLANT'S ATTORNEY JEFFREY S. NOWAK		ADDRESS 95 ALMSHOUSE RD. STE. 305 RICHBORO PA 18954	
PHONE NUMBER (215) 364-3700	FAX NUMBER (215) 364-3701	E-MAIL ADDRESS jefnwk@comcast.net	
SUPREME COURT IDENTIFICATION NO. 55124		DATE SUBMITTED Tuesday, March 29, 2011, 05:28 pm	
SIGNATURE OF FILING ATTORNEY OR PARTY JEFFREY NOWAK		DATE SUBMITTED	

FINAL COPY (Approved by the Prothonotary Clerk)

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
COURT OF COMMON PLEAS OF PHILADELPHIA



Lester W. Barger,

Plaintiff,

v.

Columbia Sussex Corp., and  
Columbia Sussex Management, LLC

MARCH, 2011  
#3242

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

*You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.*

Philadelphia Bar Association  
Lawyer Referral  
and Information Service  
One Reading Center  
Philadelphia, Pennsylvania 19107  
(215) 238-6333  
TTY (215) 451-6197

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascender una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, la corte puede decider a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

*Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.*

Asociacion De Licenciados  
De Filadelfia  
Servicio De Referencia E  
Informacion Legal  
One Reading Center  
Filadelfia, Pennsylvania 19107  
(215) 238-6333  
TTY (215) 451-6197



Law Offices of Jeffrey S. Nowak  
By: Jeffrey S. Nowak, Esq.  
Pa. ID No. 55124  
95 Almshouse Road, Ste. 305  
Richboro, Pa. 18954  
(215) 364-3700  
Fax: (215) 364-3701  
Email: [Jefnwk@comcast.net](mailto:Jefnwk@comcast.net)

**MAJOR JURY TRIAL  
DAMAGES IN EXCESS OF  
\$50,000.00**

*Attorneys for Plaintiff,  
Lester W. Barger*

LESTER W. BARGER  
450 E. Pershing Road  
Suite 206  
Decatur, Il. 62526,

Plaintiff,

V.

COMMON PLEAS COURT OF  
PHILADELPHIA COUNTY,  
COMMONWEALTH OF  
PENNSYLVANIA

Term: *march, 2011*  
No. *#3242*

**COLUMBIA SUSSEX CORP.**

c/o CT Corporation System  
1635 Market St.  
Phila., Pa. 19103, and,

**COLUMBIA SUSSEX MANAGEMENT,  
LLC**

c/o CT Corporation System  
1635 Market St.  
Phila., Pa. 19103, and,

AND NOW COMES the Plaintiff, Lester W. Barger, by and through his attorney,  
Jeffrey S. Nowak, Esq., and sets forth the following as to the above-captioned Defendants  
by way of First Amended Complaint:

1. Plaintiff, Lester W. Barger, is an adult individual who at all relevant times  
herein resided at 450 E. Pershing Road, Suite 206, Decatur, Illinois 62526.

2. Defendant, Columbia Sussex Corporation, upon information and belief, is an entity formed and existing under the laws of the State of Kentucky, and is licensed to transact business in the Commonwealth of Pennsylvania and is/was doing business in the Commonwealth of Pennsylvania in or about April, 2009, at the Sheraton Center City Hotel, 201 N. 17<sup>th</sup> Street, Philadelphia, Pennsylvania.

3. Defendant, Columbia Sussex Management, LLC, upon information and belief, is an entity formed and existing under the laws of the State of Kentucky, and is licensed to transact business in the Commonwealth of Pennsylvania and is/was doing business in the Commonwealth of Pennsylvania in or about April, 2009, at the Sheraton Center City Hotel, 201 N. 17<sup>th</sup> Street, Philadelphia, Pennsylvania.

4. On or about April 4, 2009, Plaintiff, Lester Barger, was a passenger on the escalator of the Sheraton Hotel, downtown Philadelphia, Pennsylvania located at 17<sup>th</sup> and Race Streets, otherwise known as the Sheraton Philadelphia City Center Hotel and owned and/or in the exclusive control and/or possession of the named Defendants, when he was caused to slip, trip and/or fall due to a defective condition on the steps/floors of the escalator resulting in severe and permanent multiple injuries to his neck, mid and low back, and knees and other injuries orthopedic in nature.

5. Plaintiff avers further that as a direct and proximate result of the conduct of the defendants he has sustained severe upper and lower extremity nerve damage; loss

of sleep; loss of appetite; loss of the enjoyment of life; migraine headaches; severe pain and anxiety.

6 Plaintiff avers further that as a direct and proximate result of the conduct of the Defendants he has incurred and will incur into the future medical bills for treatment of his multiple injuries; prescription medication costs; loss of earning potential; lost present and future wages.

**COUNT I**  
**(Negligence)**

7. Plaintiff incorporates by reference all of his allegations set forth in paragraph nos. one (1) through six (6) as if set forth fully herein.

8. Plaintiff avers that the Defendants owed him the following duties:

- (a) The duty to properly maintain their customer transportation system;
- (b) The duty to keep their customer transportation system free of debris and other trash that would otherwise create a hazardous condition and cause harm to the public;
- (c) The duty to periodically clean their customer transportation system and keep it free of foreign objects which would otherwise cause a defective and/or hazardous condition to the public;
- (d) The duty to warn the public of the existence of various hazardous conditions existing in the defendant's facility;

(e) The duty to provide adequate measures to clean or otherwise prevent customers and/or the general public from slipping and/or falling on the “people mover”, i.e., escalator;

(f) The duty to post adequate warning signs to alert the public of any hazardous condition to the “people mover”, i.e., escalator;

(g) The duty to properly clean and maintain the property described herein and otherwise keep said property free and clear of hazardous conditions;

(h) Any other and further duty(ies) that may be revealed during the discovery period.

9. Plaintiff avers that the Defendants breach some or all of the foregoing duties and as a proximate result thereof the Plaintiff sustained severe, multiple and permanent injuries and economic losses as set forth herein.

**WHEREFORE**, Plaintiff demands judgment in his favor for pain and suffering; economic losses; reasonable counsel fees; interest and costs and in excess of \$50,000.00, and any other and further relief that this Honorable Court deems appropriate.

**COUNT II**  
**(Res Ipsa Loquitor)**

10. Plaintiff incorporates by reference all of his allegations set forth in paragraph nos. one (1) through nine (9) as if set forth fully herein.

11. Plaintiff avers that the conduct of the Defendants set forth herein could not have occurred in the absence of negligence.

12. Plaintiff avers further that as a direct and proximate result of the Defendants' action and/or inaction he was caused to sustain permanent personal injury damages and economic damages and will continue to do so into the future.

**WHEREFORE**, Plaintiff demands judgment in his favor for pain and suffering; economic losses; reasonable counsel fees; interest and costs and in excess of \$50,000.00, and any other and further relief that this Honorable Court deems appropriate.

Law Offices of Jeffrey S. Nowak

By: 

Jeffrey S. Nowak, Esq.

Pa. ID No. 55124

95 Almshouse Road, Ste. 305

Richboro, Pa. 18954

(215) 364-3700

Fax: (215) 364-3701

Email: [jefnwk@comcast.net](mailto:jefnwk@comcast.net)

*Attorneys for Plaintiff, Lester W. Barger*

Dated: March 28, 2011

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands trial by jury on all issues so triable.

Law Offices of Jeffrey S. Nowak

By: 

Jeffrey S. Nowak, Esq.

Pa. ID No. 55124

95 Almshouse Road, Ste. 305

Richboro, Pa. 18954

(215) 364-3700

Fax: (215) 364-3701

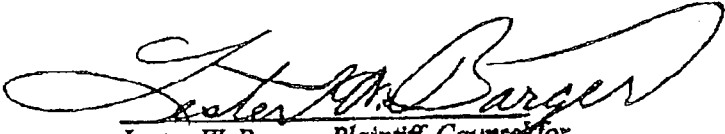
Email: [jefnwk@comcast.net](mailto:jefnwk@comcast.net)

*Attorneys for Plaintiff, Lester W. Barger*

Dated: March 28, 2011

VERIFICATION

THE UNDERSIGNED does hereby verify that the statements set forth in the foregoing First Amended Complaint are true and correct to the best of my knowledge, information and belief. The undersigned further understands that this statement is made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

  
Lester W. Barger, Plaintiff, Counsel for  
The Plaintiff, Unavailable

Dated: March 28, 2011

RECEIVED  
2011 APR -7 AM 10:27  
CLERK OF COURT  
U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA



# **EXHIBIT B**

**SPECTOR GADON & ROSEN, P.C.**

NEW JERSEY OFFICE:  
1000 LENOLA ROAD  
P.O. BOX 1001  
MOORESTOWN, NJ 08057  
[856] 778-8100  
FAX: [856] 722-5344

NEW YORK OFFICE:  
ONE PENN PLAZA  
36<sup>TH</sup> FLOOR  
NEW YORK, NY 10119  
[212] 786-7394

ATTORNEYS AT LAW  
SEVEN PENN CENTER  
1635 MARKET STREET  
SEVENTH FLOOR  
PHILADELPHIA, PENNSYLVANIA 19103  
[215] 241-8888  
FAX: [215] 241-8844  
WWW.LAWSGR.COM

FLORIDA OFFICE:  
360 CENTRAL AVENUE  
SUITE 1550  
ST. PETERSBURG, FL 33701  
[727] 896-4600  
FAX: [727] 896-4604

***John T. Asher, III***

**DIRECT DIAL NUMBER**  
[215] 241-8847

May 10, 2011

**E-MAIL**  
jasher@lawsgr.com

**VIA FACSIMILE (215) 364-3701**

Jeffrey S. Nowak, Esquire  
Law Offices of Jeffrey S. Nowak  
95 Almshouse Road  
Suite 305  
Richboro, PA 18954

**RE: Lester W. Barger v. Columbia Sussex Corporation, et al.**  
**CCP Philadelphia Cty., March Term, 2011, No. 03242**  
**Our File No. 45760-110**

Dear Mr. Nowak:

I am writing to confirm that based on our conversation of the other day, that you believe the value of the case in light of the plaintiff's medical specials is in excess of \$100,000.00. In light of your representation, we intend to move forward with removing the case to the United States District Court for the Eastern District of Pennsylvania.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

  
**JOHN T. ASHER, III**

JTA/lah

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

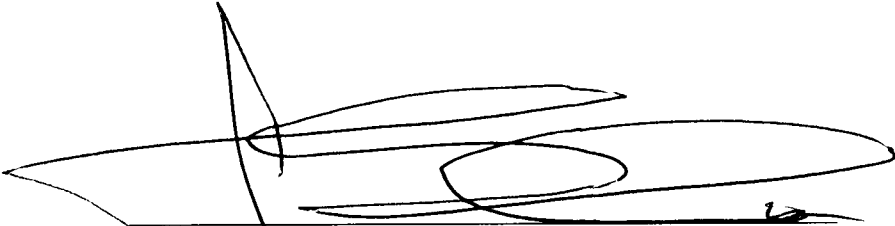
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LESTER BARGER	:	
	:	
	:	
	:	
v.	:	
	:	
COLUMBIA SUSSEX CORPORATION,	:	
and COLUMBIA SUSSEX	:	
MANAGEMENT, LLC,	:	NO.
	:	
Defendants.	:	

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**DISCLOSURE STATEMENT FORM**

The nongovernmental corporate party, Columbia Sussex Corporation, in the above listed civil action does not have any parent corporations and/or publicly held corporations that own 10% or more of its stock.



George M. Vinci, Jr.  
John T. Asher, III  
**SPECTOR GADON & ROSEN, P.C.**  
Seven Penn Center  
1635 Market Street, 7<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 241-8888

Attorneys for the defendants Columbia Sussex Corporation  
and Columbia Sussex Management, LLC